



Department of Justice

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JUSTICE DEPARTMENT REQUIRES WEST VIRGINIA MEDICAL CENTER TO END ILLEGAL AGREEMENT

Market Allocation Agreement Prevented Entry of New Competitor

WASHINGTON, D.C. – The Department of Justice announced today that it will require a West Virginia hospital--Charleston Area Medical Center Inc. (CAMC)--to terminate an agreement with HCA Inc. that prevents HCA from developing a cardiac surgery program in Raleigh County, West Virginia. The Department said that terminating the agreement is necessary to restore competition between CAMC and HCA for cardiac surgery services.

The Department's Antitrust Division filed a civil lawsuit today in U.S. District Court in Charleston, West Virginia, challenging CAMC's agreement as a violation of the Sherman Act. At the same time, the Department filed a proposed consent decree that, if approved by the court, would resolve the lawsuit and the Department's competitive concerns.

"Competition among hospitals results in lower prices, greater quality of care, and increased innovation for healthcare consumers," said Thomas O. Barnett, Acting Assistant Attorney General in charge of the Department's Antitrust Division. "The Antitrust Division will continue to be vigilant in ensuring that hospitals and other healthcare providers do not unreasonably deprive consumers of the benefits of competition."

According to the complaint, CAMC operates the largest cardiac surgery program in West Virginia, the sixth largest such program in the United States, through facilities located in

Charleston, Kanawha County, West Virginia. HCA owns and operates Raleigh General Hospital, located in Beckley, Raleigh County, West Virginia.

West Virginia revised its requirements for certifying hospitals to provide cardiac surgery services in February 2002. Under the revised standards, West Virginia healthcare authorities were likely to approve a single cardiac surgery program in a six-county area of southern West Virginia. Raleigh County is the northernmost of those six counties, just south of Kanawha County, where CAMC is located, which is about 55 miles north of Raleigh General.

According to the complaint, CAMC did not want a competing cardiac surgery program as close as Raleigh County. Therefore, in April 2002, CAMC persuaded HCA to enter into an agreement that prevented HCA from developing a cardiac surgery program at Raleigh General Hospital. In exchange for this agreement not to compete, CAMC promised to support two unrelated HCA programs in other parts of West Virginia. The complaint alleges that the agreement unreasonably restrained competition to the detriment of consumers by effectively ensuring that no hospital in nearby Raleigh County, West Virginia, would compete with CAMC to provide cardiac surgery services.

The proposed consent decree annuls the anticompetitive portion of the CAMC-HCA agreement and prohibits CAMC from entering into other agreements that allocate any cardiac surgery service, market, territory, or customer. In addition, the proposed consent decree prevents CAMC from entering into any agreement that prohibits or restricts a healthcare facility from developing cardiac surgery services unless CAMC receives the prior approval of the United States.

As required by the Tunney Act, the proposed consent decree, along with the Department's competitive impact statement, will be published in the *Federal Register*. Any

person may submit written comments concerning the proposed decree during a 60-day comment period to Mark J. Botti, Chief, Litigation I Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, N.W., Suite 4000, Washington, DC 20530. At the conclusion of the 60-day comment period, the court may enter the consent decree upon a finding that it serves the public interest.

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